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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,083	03/05/2001	Rodger H. Rast	TRico_01	3270

26994 7590 12/16/2005

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EXAMINER

BAROT, BHARAT

ART UNIT PAPER NUMBER

2155

DATE MAILED: 12/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/800,083	Applicant(s) RAST, RODGER H.	
	Examiner Bharat N. Barot	Art Unit 2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

RESPONSE TO AMENDMENT

1. Claims 1-20 remain for further examination.

The old rejection maintained

2. Applicant's arguments with respect to claims 1-20 filed on September 19, 2005 have been fully considered but they are not deemed to be persuasive for the claims 1-20. The rejection is respectfully maintained as set forth in the last Office Action mailed on May 16, 2005.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1-3, 6-11, and 16-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Reber et al (U.S. Patent No. 6,032,195).

Reber patent meets all the limitations for the claims 1-3, 6-11, and 16-20 recited in the claimed invention.

5. As to claim 1, Reber et al disclose a system for sending temporally displaced electronic messages over a network (see abstract and figure 1), comprising: a sending system (data reader/navigation device) capable of accessing a network and configured to encode a temporal specifier (optical code) into an electronic message to be send

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over the network to a recipient at a destination address on the network (figure 1; and column 2 lines 5-64); and a retention system (network access apparatus) connected on the network, configured to decode the temporal specifier of the electronic message, store the electronic message, and send the electronic message to the destination in accord with the specified temporal specifier (figure 1; column 4 lines 17-40; and column 5 line 57 to column 6 line 19).

6. As to claims 2-3, Reber et al disclose that the sending system comprises a first computer capable of executing programmed instructions (figure 1; and column 3 line 38 to column 4 line 16); and the retention system comprises a second computer connected to a network and capable of executing programmed instructions (figure 1; and column 4 lines 32-50).

7. As to claim 6, Reber et al disclose that the sending system encodes the network address of the retention system into the electronic message (column 2 lines 58-64), such that the electronic message containing the encoded temporal specifier is first sent to the retention system prior to the retention system sending the electronic message to the recipient at the destination at a time according to the temporal specifier (column 4 lines 17-67 and column 5 line 56 to column 6 line 44).

8. As to claims 7-8, Reber et al disclose that the retention system is capable of adding content to the electronic message; and the content added by the retention

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system is selected from sources of content consisting of text, multimedia, graphics, sounds, files, and file pointers (column 4 line 60 to column 5 line 48).

9. As to claim 9, Reber et al disclose that the sending system is configured to encode commands for escalating the communication of the body of the electronic message to the recipient, and the retention system is responsive to these escalation commands to communicate the body of the electronic message to the destination address additional times (figures 1-2; column 2 lines 20-64; and column 5 line 56 to column 7 line 55).

10. As to claim 10, Reber et al disclose that the body of the electronic message is communicated additional times through a communication media in a format selected from the group of media formats consisting of electronic messages, telephone messages, FAX messages, and Pager messages (column 2 lines 5-19; and column 3 lines 14-22).

11. As to claim 11, it is also rejected for the same reasons set forth to rejecting claim 1, 6, and 9 above, since claim 11 is merely a method of operations for the apparatus (system) defined in the claims 1, 6, and 9.

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12. As to claim 16, Reber et al disclose that the retention system provides editing and deletion capability on the retained electronic messages to the sender of the electronic messages (column 4 line 17 to column 6 line 44; and column 8 lines 20-44).

13. As to claims 17-20, they are also rejected for the same reasons set forth to rejecting claim 1, 6, and 9 above. Additionally, Reber et al disclose that the temporal specifier comprises a date, time, or date and time which is encoded into the electronic message by the sending system (figures 1-2; and column 7 line 60 to column 8 line 56).

Claim Rejections - 35 USC § 103

14. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

15. Claims 4-5 and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reber et al (U.S. Patent No. 6,032,195) in view of Mayle et al (U.S. Patent No. 6,542,936).

16. As to claims 4-5, Reber et al do not disclose that the internet service provider (ISP) for the sending system and the internet service provider (ISP) for the recipient at the destination address

Mayle et al disclose that the internet service provider (ISP) for the sending system comprises the retention system such that electronic messages sent from the

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sending system must pass through the retention system associated with the ISP; and the internet service provider (ISP) for the recipient at the destination address comprises the retention system such that electronic messages sent from the sending system must first pass through the retention system associated with the ISP of the destination address prior to arrival at the destination (figures 1; column 1 line 60 to column 2 line 13; and column 4 lines 15-60).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Mayle et al stated above in the system of Reber et al for sending temporally displaced electronic messages over a network because it would have provided an efficient and high volume e-mail transmission system which automatically handle bounced e-mail messages.

17. As to claims 12-13, Reber et al disclose that the retention system comprises a mail server provided by the internet service provider (ISP) of the sender and the internet service provider (ISP) of the recipient at the destination address (figures 1; column 1 line 60 to column 2 line 13; and column 4 lines 15-60).

18. Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reber et al (U.S. Patent No. 6,032,195) in view of Funk et al (U.S. Patent No. 5,937,162).

19. As to claims 14-15, Reber et al do not explicitly disclose that the user specified delivery time coordinate is configured to be equated to a particular day and time.

Funk et al explicitly discloses that the user specified delivery time coordinate is configured to be equated to a particular day and time (column 6 lines 38-52; column 7 lines 43-51; column 11 lines 29-35; and column 11 line 64 to column 12 line 11).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Funk et al stated above in the system of Reber et al for sending temporally displaced electronic messages over a network because it would have provided an efficient and high volume e-mail transmission system which automatically handle bounced e-mail messages.

Response to Arguments

20. Applicant's arguments with respect to claims 1-20 filed on September 19, 2005 have been fully considered but they are not deemed to be persuasive for the claims 1-20.

In the remarks, the applicant argues that:

(A) Argument: Reber does not teach the encoding of a temporal specifier, or the delivery of the email in response to that temporal specifier.

Response: Reber teaches that the optical code encodes navigation data for navigating to a destination via a network and also encodes an address for the destination, which implies that the encoding of a temporal specifier, or the delivery of

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the email in response to that temporal specifier (column 2 lines 58-64; column 4 lines 25-31; and column 5 line 57 to column 6 line 19).

(B) Argument: Reber does not teach the steps of retaining the electronic message until the specified time coordinate arrives; and sending the electronic message to the destination address.

Response: Reber teaches the steps of retaining the electronic message until the specified time coordinate (task information) arrives; and sending the electronic message to the destination address (column 4 line 60 to column 5 line 63).

(C) Argument: Reber does not teach that the temporal specifier comprises a date, time, or date and time which is encoded into the electronic message by the sending system.

Response: Reber indirectly teaches that the temporal specifier comprises a date, time, or date and time, which is encoded into the electronic message by the sending system (column 7 line 60 to column 8 line 56) because Reber teaches that the optical code encodes a URL, agent creates an address including the URL and task information, which may related to the time (column 7 line 65 to column 8 line 3; and column 8 lines 28-39).

(D) In response to applicant's argument about the claims 4-5 and 12-15 (103 rejections), a recitation of the intended use of the claimed invention must result in a

structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

(E) In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., automatically sent additional time claim 9) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

(F) **Argument:** Reber does not teach that the retention system provides editing and deletion capability on the retained electronic messages to the sender of the electronic messages.

Response: Reber indirectly teaches that the retention system provides **editing** and deletion capability on the retained electronic messages to the sender of the electronic messages (column 8 lines 20-44); and also teaches that the temporal specifier (destination address) is remove from the message (column 5 lines 57-63).

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21. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Contact Information

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Bharat Barot** whose Telephone Number is **(571) 272-3979**. The examiner can normally be reached on Monday-Friday from 9:30 AM to 6:00 PM. Most facsimile-transmitted patent application related correspondence is required to be sent to the Central FAX Number **(571) 273-8300**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Saleh Najjar**, can be reached at **(571) 272-4006**.


BHARAT BAROT
PRIMARY EXAMINER

Patent Examiner Bharat Barot

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November 28, 2005